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Vietnam *Pocket Tax Book* **2012**

A Summary
of Vietnam
Taxation



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A Summary of Vietnam Taxation

The information in this booklet is based on current taxation regulations and practice including certain legislative proposals and measures as at 31 March 2012.

This booklet is intended as a general guide. Where specific transactions are being contemplated, definitive advice should be sought.

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Taxation

General Overview

Most foreign investments and foreign investors will be affected by the following taxes:

- Corporate income tax;
- Various withholding taxes;
- Capital assignment profits tax;
- Value added tax;
- Import duties;
- Personal income tax of Vietnamese and expatriate employees; and
- Social insurance, unemployment insurance and health insurance contributions.

There are various other taxes that may affect certain investors, including:

- Special sales tax;
- Natural resources tax;
- Property taxes;
- Export duties; and
- Environment protection tax.

All these taxes are imposed at the national level. There are no local, state or provincial taxes.

Corporate Income Tax (“CIT”)

Tax Rates

Taxpayers are subject to the tax rates imposed under the CIT Law. The standard CIT rate is 25%. Enterprises operating in the oil and gas industry are subject to CIT rates ranging from 32% to 50% depending on the location.

Tax Incentives

Tax incentives are granted based on regulated encouraged sectors and difficult socio-economic locations. The sectors which are encouraged by the Vietnamese Government include education, health care, sport/culture, high technology, environmental protection, scientific research, infrastructural development and computer software manufacture.

The two preferential rates of 10% and 20% are available for 15 years and 10 years respectively, starting from the commencement of operating activities. When the preferential rate expires, the CIT rate reverts to the standard rate.

Taxpayers may be eligible for tax holidays and reductions. The holidays take the form of a complete exemption from CIT for a certain period beginning immediately after the enterprise first makes profits, followed by a period where tax is charged at 50% of the applicable rate. However, where the enterprise has not derived profits within 3 years of the commencement of operations, the tax holiday/tax reduction will start from the fourth year of operation. Criteria for eligibility for these holidays and reductions are set out in the CIT regulations.

Additional tax reductions may be available for engaging in manufacturing, construction, and transportation activities which employ many female staff, or employ ethnic minorities.

Tax incentives do not apply to other income, which is broadly defined.

From 1 January 2012, following Vietnam’s WTO commitments, tax incentives based on export criteria and domestic material usage ratio have been removed. Taxpayers which had tax incentives based on export criteria may select and notify the tax authorities of alternative CIT incentives and apply them for the remaining period.

Calculation of Taxable Profits

Taxable profit is the difference between total revenue, whether domestic or foreign sourced, and deductible expenses, plus other assessable income.

Taxpayers are required to prepare an annual CIT return which includes a section for making adjustments between accounting profits and taxable profits.

Non-deductible Expenses

Expenses which relate to the generation of revenue, that are properly supported by suitable documentation and are not specifically identified as being non-deductible are tax deductible. Examples of non-deductible expenses include:

- Depreciation of fixed assets which is not in accordance with the prevailing regulations;
- Any portion of costs of raw materials, materials, fuel or goods which are used in excess of the reasonable consumption levels;
- Employee remuneration expenses which are not actually paid or are not stated in a labour contract or collective labour agreement;
- Reserves for research and development not in accordance with the prevailing regulations;
- Provisions for severance allowance (except for enterprises not subject to mandatory unemployment insurance contributions);
- Management expenses allocated to permanent establishments in Vietnam by the foreign company's head office which are not in accordance with the regulations;
- Interest on loans corresponding to the portion of charter capital not yet contributed;
- Interest on loans from non-economic and non-credit organisations exceeding 1.5 times the interest rate set by the State Bank of Vietnam;
- Provisions for stock devaluation, bad debts, financial investment losses, product warranties, or construction work which are not in accordance with the prevailing regulations;
- Advertising, promotion (except certain items), conferences/parties, commissions (except for insurance, agents selling goods

at pre-determined price and multi level marketing), prompt payment discounts exceeding 10% of total other deductible expenses (this cap is increased to 15% for newly-established enterprises for the first 3 operating years);

- Unrealised foreign exchange losses due to the revaluation of foreign currency items other than account payables at the end of a financial year;
- Donations except certain donations for education, health care, natural disasters, or building charitable homes for the poor;
- Administrative penalties, fines;
- Creditable input value added tax, corporate income tax, and personal income tax.

For certain businesses such as insurance companies, securities trading, and lotteries, the Ministry of Finance provides specific guidance on deductible expenses for CIT purposes.

Business entities in Vietnam are allowed to set up a tax deductible Research and Development fund. Enterprises can appropriate up to 10% of annual profits before tax to the fund. Various conditions apply.

Losses

Taxpayers may carry forward tax losses fully and consecutively for a maximum of five years.

Losses of incentivised activities can be offset against profits from non-incentivised activities, and vice versa. However, losses/gains from the transfer of real estate are not allowed to be offset against other business activities.

Carry-back of losses is not permitted. There is no provision for any form of consolidated filing or group loss relief.

Transfer Pricing

Vietnam has transfer pricing regulations which outline various situations where transactions will be considered as being between related parties, and the mechanisms for determining the market "arm's length" transaction value, e.g. comparable uncontrolled price, cost plus, resale price, comparable profits and profit split.

Under the wide ranging definition of related parties, the control threshold is lower than in many other countries (20%), and the definition also extends to certain significant supplier, customer and funding relationships between otherwise unrelated parties.

Compliance requirements include an annual declaration of related party transactions and transfer pricing methodologies used, which is required to be filed together with the annual CIT return.

Companies which have related party transactions must also prepare and maintain contemporaneous transfer pricing documentation.

Administration

Provisional quarterly CIT returns must be filed and taxes must be paid by the 30th day of the first month of the subsequent quarter.

Final CIT returns are filed annually. The annual CIT return must be filed and submitted not later than 90 days from the fiscal year end. The outstanding tax payable must be paid at the same time the annual CIT return is submitted.

Where a taxpayer has dependent branches in different provinces, a single CIT return is required. However, manufacturing enterprises are required to allocate tax payments to the various provincial tax authorities in the locations where they have manufacturing branches. The basis for allocation is the proportion of expenditure spent by each branch over the total expenditure of the company.

The standard tax year is the calendar year. Companies are required to notify the tax authorities in case of using a tax year other than the calendar year.

Profit Remittance

Foreign investors are permitted to remit their profits annually at the end of the financial year or upon termination of the investment in Vietnam. Foreign investors are not permitted to remit profits if the investee company has accumulated losses.

The foreign investor or the investee company are required to notify the tax authorities of the plan to remit profits at least 7 working days prior to the scheduled remittance.

Foreign Contractor Withholding Tax (“FCWT”)

FCWT applies to payments of interest, royalties, licence fees, fees, cross border leases, insurance/ reinsurance, airline and express delivery charges to foreign companies.

Dividends

No withholding or remittance tax is imposed on profits paid to foreign corporate shareholders.

Interest

An interest withholding tax of 5% applies to interest paid on loans from foreign entities. Pre 1 March 2012, a 10% withholding tax rate was applied while pre 1999 loans may be exempt. Offshore loans provided by certain Government or semi-government institutions may obtain an exemption from interest withholding tax where a relevant double taxation agreement or inter-governmental agreement applies.

Interest earned from bonds (except for tax exempt bonds) and certificates of deposit are subject to 5% withholding tax. Sales of bonds and certificates of deposits are subject to deemed tax of 0.1% of the gross sales proceeds.

Royalties, Licence Fees, etc.

A 10% royalty withholding tax applies in the case of payments made to a foreign party for transfers of technology. Transfers of technology are defined broadly.

Freight & Transportation Services

Foreign entities performing transportation services are subject to FCWT.

Payments to Foreign Contractors

A withholding tax on payments to foreign contractors applies where a Vietnamese contracting party (including foreign owned enterprises) contracts with a foreign party that does not have a licensed presence in Vietnam.

This FCWT generally applies to payments derived from Vietnam, except for the pure supply of goods (i.e. where title passes at or before the border gate of Vietnam, and there are no associated services performed in Vietnam), services performed and consumed outside Vietnam, and various other services performed wholly outside Vietnam (e.g. certain repairs, training, advertising, promotion etc).

Foreign contractors can choose between three methods for tax payment, i.e. deduction method, deemed method and hybrid method.

Method One – Deduction Method

Foreign contractors can register for VAT if they meet all of the requirements below:

- They have a permanent establishment (“PE”) or are tax resident in Vietnam;
- The duration of the project in Vietnam is more than 182 days; and
- They adopt the full Vietnamese Accounting System (“VAS”).

The Vietnamese customer is required to notify the tax office that the foreign contractor will pay tax under the deduction method within 20 working days from the date of signing the contract.

If the foreign contractor carries out many projects in Vietnam, and qualifies for application of the deduction method for one project, the contractor is required to apply the deduction method for its other projects as well.

The foreign contractor will pay CIT at 25% on its net profits.

Method Two – Deemed Method

Foreign contractors adopting the deemed method do not register for VAT. VAT and CIT will be withheld by the Vietnamese contracting party at deemed percentages of taxable turnover. Various rates are specified according to the nature of the services performed. The VAT withheld by the Vietnamese contracting party is generally an allowable input credit in the Vietnamese contracting party's VAT return.

Method Three – Hybrid Method

The hybrid method allows foreign contractors to register for VAT and accordingly pay VAT based on the conventional method (i.e. output VAT less input VAT), but with CIT continuing to be subject to deemed rates.

Foreign contractors wishing to adopt the hybrid method must:

- Have a PE in Vietnam or be tax resident of Vietnam; and
- Operate in Vietnam under a contract with a term of more than 182 days; and
- Maintain accounting records in accordance with the accounting regulations and guidance of the Ministry of Finance.

The FCWT rates including VAT and CIT rates are summarised below:

Industry	Effective VAT rate	Deemed CIT rate
Trading: distribution, supply of goods, materials, machinery and equipment in Vietnam.	Exempt (*)	1%
Services	5%	5%
Services together with supply of machinery and equipment	3%	2%
Restaurant, hotel and casino management services	5%	10%
Construction, installation (**) without supply of materials or machinery, equipment.	5%	2%
Construction, installation (**) with supply of materials or machinery, equipment.	3%	2%
Leasing of machinery and equipment	5%	5%
Leasing of aircraft, vessels (including components)	Not specified	2%
Transportation	3%	2%

Industry	Effective VAT rate	Deemed CIT rate
Interest	Exempt	5%
Royalties	Exempt	10%
Insurance (***)	5%	5%
Re-insurance, commission for re-insurance	Exempt	0.1%
Transfer of securities	Exempt	0.1%
Financial derivatives	Exempt	2%
Manufacturing, other business activities	3%	2%

* On the basis import VAT is paid

** Relates to VAT only

***Generally applies to non-life insurance except for certain VAT exempt insurance services (please refer to “Exempt good and service” section in VAT part).

Double Taxation Agreements (“DTAs”)

The above withholding taxes may be affected by relevant DTAs. For example, the deemed CIT on foreign contractors may be eliminated or reduced under a relevant DTA.

Vietnam has more than 60 agreements signed, and numerous others at various stages of implementation and negotiation. The agreements in force include those with Australia, France, Germany, Japan, Korea, Malaysia, the Netherlands, Singapore, Thailand, Hong Kong and the United Kingdom, etc. Notably absent is a DTA with the United States of America. A summary of the provisions of some key DTAs is given in Appendix I.

Capital Assignment Profits Tax (“CAPT”)

Gains on transfers of interests (as opposed to shares) in a foreign invested or Vietnamese enterprise are subject to 25% CIT. The taxable gain is determined as the excess of the sale proceeds less cost (or the initial value of contributed charter capital for the first transfer) less transfer expenses.

Where the vendor is a foreign organisation or foreign individual, a Vietnamese purchaser is required to withhold the tax due from the payment to the vendor, and account for this to the tax authorities. Where the purchaser is also a foreign organisation, the Vietnamese company in which the interest is transferred is responsible for the CAPT administration. The return and payment is required within 10 days from the date of the approval of the sale.

Transfers of securities (bonds, shares of public joint stock companies, etc.) are subject to CIT on a deemed basis at 0.1% of the total disposal proceeds.

Value Added Tax (“VAT”)

Scope of Application

VAT applies to goods and services used for production, trading and consumption in Vietnam (including goods and services purchased from abroad). In each case the business must charge VAT on the value of goods or services supplied.

In addition, VAT applies on the duty paid value of imported goods. The importer must pay VAT to customs authorities at the same time that they pay import duties.

VAT payable is calculated as the output VAT charged to customers less the input VAT suffered on purchases of goods and services. For input VAT to be creditable, the taxpayer must obtain a proper VAT invoice from the supplier.

Goods or Services not Subject to VAT

This is a new category introduced in 2012. For these supplies, no output VAT has to be charged, but input VAT paid on related purchases can be credited. These supplies include:

- Goods or services provided outside Vietnam (including between two Vietnamese taxpayers), except for certain international transportation activities;
- Compensation, bonus, subsidies, transfers of emission rights, and other financial revenues;
- Certain services rendered by a foreign organization which does not have a permanent establishment in Vietnam where the services are rendered outside of Vietnam, including repairs to means of transport, machinery or equipment; advertising, marketing, promotion of investment and trade; brokerage activities; training; certain international telecommunication services;
- Capital contributions in kind;
- Certain asset transfers between a parent company and its subsidiaries, or between subsidiaries of the same parent company;
- Collections of compensation/indemnities by insurance companies from third parties;

- Collections on behalf of other parties which are not involved in the provision of goods/services (e.g. if company A purchases goods/services from company B, but pays to company C and subsequently company C pays to company B, then the payment from company C to company B is not subject to VAT);
- Commissions earned by (i) agents selling services, including postal, telecommunications, lottery, airlines/bus/ship/train tickets, at prices determined by principals; and (ii) agents for international transportation, airlines and shipping services entitled to 0% VAT; and (iii) insurance agents;
- Commissions from the sale of goods/services not subject to VAT.

Exempt Goods and services

There are stipulated categories of VAT exemption, including:

- Certain agricultural products;
- Imported leased drilling rigs, aeroplanes and ships of a type which cannot be produced in Vietnam;
- Transfer of land use rights;
- Financial derivatives, credit services (including credit card issuance);
- Various securities activities including fund management;
- Capital assignment;
- Foreign currency trading;
- Debt factoring;
- Certain insurance services (including life insurance, health insurance, agricultural insurance and reinsurance);
- Medical services;
- Teaching and training;
- Printing and publishing of newspapers, magazines, and certain types of books;
- Certain cultural, artistic, sport services/products;
- Passenger transport by public buses;
- Transfer of technology and software services, except exported software which is entitled to 0% rate;
- Gold imported in pieces which have not been processed into jewellery;

- Exported unprocessed mineral products such as crude oil, rock, sand, rare soil, rare stones, etc;
- Imports of machinery, equipment and special means of transport which are directly for use in technology research and development activities and which cannot be made in Vietnam;
- Equipment, machinery, spare parts, specialised means of transportation and necessary materials used for prospecting, exploration and development of oil and gas fields (which cannot be produced in Vietnam);
- Goods imported in the following cases: international non-refundable aid, including from Official Development Aid, foreign donations to government bodies and to individuals (subject to limitations).

Tax Rates

There are three VAT rates as follows:

- 0% This rate applies to exported goods/services including goods sold to enterprises without permanent establishments in Vietnam (including companies in non-tariff zones), goods processed for export or in-country export, goods sold to duty free shops, certain exported services, construction and installation carried out abroad or for export processing enterprises, aviation, marine and international transportation services.
- 5% This rate applies generally to areas of the economy concerned with the provision of essential goods and services. These include: clean water; fertiliser production; teaching aids; books; foodstuffs; medicine and medical equipment; husbandry feed; various agricultural products and services, technical/scientific services; rubber latex; sugar and its by-products.
- 10% This “standard” rate applies to activities not specified as not subject to VAT, exempt or subject to 0% or 5%.

When a supply cannot be readily classified based on the tax tariff, VAT must be calculated based on the highest rate applicable for the particular range of goods which the business supplies.

Exported Services

Services rendered to foreign companies, including companies in non-tariff areas, are subject to 0% VAT if the following conditions are met:

- The foreign company has no PE in Vietnam (PE is not defined in the VAT regulations and the definition under the domestic CIT regulations will generally apply in this respect); and
- The foreign company is not a VAT payer in Vietnam.

Various supporting documents are required in order to apply 0% VAT to exported goods and services (except for international transportation services): e.g. contracts, customs declarations (for exported goods only) and in respect of exported services, a confirmation by the foreign customer that it does not have a PE and is not a VAT payer in Vietnam.

There are a number of services specified in the VAT regulations which do not qualify for 0% VAT, in particular advertising, hotel services, entertainment, tourism, and various services provided to non-tariff areas, including leasing of houses; transport services for employees to and from their work place; and certain catering services.

VAT Calculation Methods

There are 2 VAT calculation methods which are the tax deduction method and direct calculation method.

Method one - Deduction method

This method applies to business establishments maintaining full books of accounts, invoices and documents in accordance with the regulations on accounting, invoices and documents, and registering for making VAT payment under the deduction method.

- Determination of VAT payable
VAT payable = Output VAT – Input VAT
- Calculation of output VAT

The output VAT to be charged is calculated by multiplying the taxable price (net of tax) by the applicable VAT rate. With respect to imported goods, VAT is calculated on the import dutiable price plus import duty plus special sales tax (if applicable) plus environment protection tax (if applicable). For goods sold on an instalment basis

(except for real estate), VAT is calculated on the total price without interest, rather than the instalments actually received.

- Input VAT credits

For imports, input VAT credits are based on the date of payment to the Customs office. Input VAT credits can be declared and claimed within 6 months from the month they arise. Input VAT credits can only be claimed where payments are made through the banking system, except for purchases of less than VND20 million or certain situations where payment offsets can be proven. Input VAT withheld from payments to overseas suppliers (i.e. under the foreign contractor withholding tax system) can also be claimed.

If a business sells exempt goods or services, it cannot recover any input VAT paid on its purchases. This contrasts with the application of 0% VAT or not subject to VAT, where the sales are within the VAT system, and hence input VAT can be recovered. Where a business generates both VATable and VAT exempt sales, it can only claim an input VAT credit for the portion of inputs used in the VATable activity.

Method two - Direct method

This method applies to individuals and business households which do not maintain proper books of accounts and foreign organizations or individuals carrying out business activities in forms not regulated in the Law on Investment, and activities of trading in gold, silver, gemstones and foreign currencies.

- Determination of VAT payable

VAT payable = value added of goods/services sold x VAT rate

Where there is a negative value added from the trading in gold, silver or precious stones in a period, it can be offset against any positive value added of those activities in the same period. Any remaining negative balance can be carried forward to a subsequent period in the same calendar year, but cannot be carried over to the next year.

Discounts and Promotions

Price discounts generally reduce the value on which VAT applies. However, certain types of discounts may not be permitted as a reduction before the calculation of VAT, and various rules and conditions apply.

Goods and Services Used Internally

Goods and services used internally by a business are VATable based on their sales price.

Administration

All organisations and individuals producing or trading in VATable goods and services in Vietnam must register for VAT. In certain cases, branches of an enterprise must register separately and declare VAT on their own activities.

Taxpayers must file VAT returns monthly, by the 20th day of the following month. Taxpayers paying tax under the deduction method are not required to file an annual VAT finalisation or reconciliation.

Refunds

Where the taxpayer's input VAT for the period exceeds its output VAT, it will have to carry the excess forward for three months. It can then claim a refund from the tax authorities. In certain cases (e.g. exporters where excess input VAT credits exceed VND 200 million), a refund may be granted on a monthly basis. Newly established entities in a construction period and having no output VAT may claim VAT refunds on a yearly basis or more frequently depending on the amount of input VAT incurred.

Newly established entities and certain investment projects which are in pre-operation stage may be entitled to refunds for VAT paid on imported fixed assets based on shorter timelines than normal, subject to conditions.

Tax Invoices

Entities in Vietnam can use pre-printed invoices, self-printed invoices or electronic invoices. The tax invoice template must contain stipulated items and be registered with the local tax authorities.

Special Sales Tax (“SST”)

SST is a form of excise tax that applies to the production or import of certain goods and the provision of certain services. Goods and services that are subject to SST are also subject to VAT.

Taxable Price

There are various anti-avoidance rules which specify minimum prices for SST purposes. For example where a manufacturer produces goods subject to SST and sells such goods through an agent, the minimum price for calculation of SST is 90% of the average selling price of the agent.

Tax Credits

Taxpayers producing SST liable goods from SST liable raw materials are entitled to claim a credit for the SST amount paid on raw materials imported or purchased from domestic manufacturers.

Tax Rates

The Law on SST classifies objects subject to SST into two groups:

1. Commodities - cigarettes, liquor, beer, automobiles having less than 24 seats, motorcycles, airplanes, boats, petrol, air-conditioners up to 90,000 BTU, playing cards, votive papers; and
2. Service activities - discotheque, massage, karaoke, casino, gambling, golf clubs, entertainment with betting and lotteries.

The SST rates are as follows:

Products / services	Tax rates (%)
Cigar/Cigarettes	65
Spirit/Wine	25 - 45
Beer	45
Automobiles having less than 24 seats	10 - 60
Motorcycles of cylinder capacity above 125cm ³	20
Airplanes	30
Boats	30
Petrol	10
Air-conditioner (not more than 90,000BTU)	10
Playing cards	40
Votive papers	70
Discotheque	40
Massage, karaoke	30
Casino, jackpot games	30
Entertainment with betting	30
Golf	20
Lotteries	15

Natural Resources Tax

Natural resources tax is payable by industries exploiting Vietnam's natural resources such as petroleum, minerals, forest products, seafood and natural water.

The tax rates vary depending on the natural resource being exploited and are applied to the production output at a specified taxable value per unit. Various methods are available for the calculation of the taxable value of the resources, including cases where the commercial value of the resources cannot be determined.

Property Taxes

The rental of land use rights by foreign investors (if not contributed as capital) is in effect a form of property tax. It is usually known as land rental and the range of rates is wide depending upon the location, infrastructure and the industrial sector in which the business is operating.

In addition, owners of houses and apartments have to pay land tax from 2012 onwards under the law on non-agricultural land tax. The tax is charged on a square meter basis with progressive tax rates ranging from 0.03% to 0.15%.

Environment Protection Tax

The law on environment protection tax took effect from 1 January 2012.

The environment protection tax is an indirect tax which is applicable to the production and importation of certain goods including petroleum products.

The tax rates are as follows:

No.	Goods	Unit	Tax range (VND)
1.	Petrol, oil, grease	litre/kg	300-4,000
2.	Coal	ton	10,000-50,000
3.	HCFC	kg	1,000-5,000
4.	Nylon bags	kg	30,000-50,000
5.	Limited usage chemicals	kg	500-3,000

The environment protection tax replaces previous regulations and various transitional rules are in place.

Import and Export Duties

Rates

Import and export duty rates are subject to frequent changes and it is always prudent to check the latest position.

Import duty rates are classified into 3 categories: ordinary rates, preferential rates and special preferential rates. Preferential rates are applicable to imported goods from countries that have Most Favoured Nation (MFN, also known as Normal Trade Relations) status with Vietnam. The MFN rates are in accordance with Vietnam's WTO commitments and are applicable to goods imported from other member countries of the WTO.

Special preferential rates are applicable to imported goods from countries that have a special preferential trade agreement with Vietnam. Vietnam has special preferential trade agreements with various countries including the ASEAN member states, Japan, China, India, Australia and New Zealand.

To be eligible for preferential rates or special preferential rates, the imported goods must be accompanied by an appropriate Certificate of Origin ("C/O"). Without such a C/O, or when goods are sourced from non-preferential treatment countries, the ordinary rate (being the MFN rate with a 50% surcharge) is imposed.

Calculations

In principle Vietnam follows the WTO Valuation Agreement with certain variations. The dutiable value of imported goods is typically based on the transaction value (i.e. the price paid or payable for the imported goods, and where appropriate, adjusted for certain dutiable or non-dutiable elements). Where the transaction value is not applied, alternative methodologies for the calculation of the customs value will be used.

SST applies to some products in addition to import duties. VAT will also be applied on all imported goods and services (unless exempt under the VAT regulations).

Exemptions

Import duty exemptions are provided for projects which are listed as encouraged sectors and goods imported in certain circumstances.

There are 20 categories of import duty exemption, including:

- Machinery & equipment, specialised means of transportation and construction materials (which cannot be produced in Vietnam) comprising the fixed assets of certain projects;
- Raw materials, spare parts, accessories, other supplies, samples, machinery and equipment imported for the processing of goods for export and finished products imported for use in the processed goods;

Currently, enterprises manufacturing goods for export do not pay import duties on raw materials where the products are destined for export. However, where the enterprise does not, or is not expected to, export the finished product within 275 days the local Customs Department will charge temporary import duty on the raw materials. Penalties for late payment can apply. Where the enterprise then exports the finished product, a refund will be provided in proportion to the raw materials contained in the exports.

- Machinery, equipment, specialised means of transportation, materials (which cannot be produced in Vietnam), health and office equipment imported to use for oil and gas activities.

Refunds

There are various cases where a refund of import duties is possible, including for:

- Goods for which import duties have been paid but which are not actually physically imported;
- Imported raw materials that have not yet been used in production and which must be re-exported;
- Imported raw materials that were imported for the production of products for the domestic market but are later used for the processing of goods for export under processing contracts with foreign parties.

Export Duties

Export duties are charged only on a few items, basically natural resources such as sand, chalk, marble, granite, ore, crude oil, forest products, and scrap metal etc. Rates range from 0% to 40%. The price for the computation of export duties is Free On Board / Delivered At Frontier price, i.e. selling price of goods at the port of departure as stated in the contract, excluding freight and insurance costs.

Personal Income Tax (“PIT”)

Tax Residency

Residents are those individuals residing in Vietnam for 183 days or more in a calendar year, or in 12 consecutive months from the first date of arrival; or those having a permanent residence in Vietnam (including a registered residence which is recorded on the permanent/temporary residence card in case of foreigners). Where an individual stays in Vietnam for more than 90 days but less than 183 days in a tax year, the individual will be treated as a tax non-resident if he/she can prove tax residency status of another country.

Tax residents are subject to Vietnamese PIT on their worldwide taxable income, wherever it is paid or received. Employment income is taxed on a progressive tax rates basis. Non-employment income is taxed at a variety of different rates.

Individuals not meeting the conditions for being tax residents are considered tax non-residents in Vietnam. Non-residents are subject to PIT at a flat tax rate of 20% on the income received as a result of working in Vietnam in the tax year, and at various other rates on their non-employment income. However, this will need to be considered in light of the provisions of any DTA that might apply.

Tax Year

The Vietnamese tax year is the calendar year. However, where in the first year of arrival, an individual is present in Vietnam for less than 183 days, his/her first tax year is the first 12 consecutive months from the first month of arrival. Subsequently, tax year is the calendar year.

Employment Income

The definition of taxable employment income is broad and includes all cash remuneration and benefits-in-kind. However, the following items are not subject to tax:

- Payments for business trips (subject to a cap);
- Payments for telephone charges (subject to a cap);
- Payments for uniform/stationery costs (subject to a cap);
- Overtime premium (i.e. the additional payment above the normal

- wage, not the full amount of the overtime/nightshift payment);
- One-off allowance for relocation to Vietnam for resident expatriates;
- Once per year home leave round trip airfare for resident expatriates;
- School fees for resident expatriates' children from primary to high school in Vietnam;
- Training;
- Mid-shift meals (subject to a cap if the meals are paid in cash and)
- Certain benefits in kind provided on a collective basis (e.g. membership fee, entertainment, healthcare, transportations to and from work).

There are a range of conditions and restrictions applicable to the above exemptions.

Non-employment Income

Taxable non-employment income includes:

- Business income (e.g. rental income);
- Investment income (e.g. interest, dividends);
- Gains on sale of shares;
- Gains on sale of real estate;
- Inheritances in excess of VND10 million.

Non Taxable Income

Non taxable income includes:

- Interest earned on deposits with credit institutions/banks and on life insurance policies;
- Compensation paid under life/non-life insurance policies;
- Retirement pensions paid under the Social Insurance law;
- Income from transfer of properties between various direct family members;
- Inheritances/gifts between various direct family members.

Foreign Tax Credits

In respect of tax residents who have overseas income, PIT paid in a foreign country is creditable.

Tax Deductions

Tax deductions include:

- Contributions to mandatory social, health and unemployment insurance schemes;
- Contributions to certain approved charities;
- Tax allowances:
 - Personal allowance: VND48 million/year;
 - Dependent allowance: VND1.6 million/month. The dependent allowance is not automatically granted, and the taxpayer needs to register qualifying dependants and provide supporting documents to the tax authority.

PIT Rates

Residents - employment and business income

Annual Taxable Income (million VND)	Monthly Taxable Income (million VND)	Tax rate
0 – 60	0 – 5	5%
60 – 120	5 – 10	10%
120 – 216	10 – 18	15%
216 – 384	18 – 32	20%
384 – 624	32 – 52	25%
624 – 960	52 – 80	30%
More than 960	More than 80	35%

Residents – non-employment income

Type of taxable income	Tax rate
Interest/ dividends	5%
Sale of securities: Net gain; or Sales proceeds	20% 0.1%
Capital assignment Net gain	20%
Sale of real estate: Net gain; or Sales proceeds	25% 2%
Income from copyright	5%
Income from franchising/royalties	5%
Income from winning prizes	10%
Income from inheritances/gifts	10%

Non-residents

Type of taxable income	Tax rate
Employment income	20%
Business income	1% - 5% (based on type of business income)
Interest/ dividends	5%
Sale of securities, capital assignment	0.1% (on sales proceeds)
Sale of real estate	2% (on sales proceeds)
Income from royalties / franchising	5%
Income from inheritance / gifts / winning prizes	10%

Administration

Tax codes

Individuals who have taxable income are required to obtain a tax code. Those who have taxable employment income must submit the tax registration file to their employer who will subsequently submit this to the local tax office. Those who have other items of taxable income are required to submit their tax registration file to the district tax office of the locality where they reside.

Tax declarations and payment

For employment income, tax has to be declared and paid provisionally on a monthly basis by the 20th day of the following month. The amounts paid are reconciled to the total tax liability at year-end. An annual final tax return must be submitted and any additional tax paid within 90 days of the year end. Expatriate employees are also required to carry out a PIT finalization on termination of their Vietnamese assignments before exiting Vietnam. Tax refunds due to excess tax payments are only available to those who have a tax code.

For non employment income, the individual is required to declare and pay PIT in relation to each type of taxable non employment income. The PIT regulations require income to be declared and tax to be paid on a regular basis, often each time income is received.

Social, Health and Unemployment Insurance Contributions

Social insurance (“SI”) and Unemployment insurance (“UI”) contributions are applicable to Vietnamese individuals only. Health insurance (“HI”) contributions are required for Vietnamese and foreign individuals that are employed under Vietnam labour contracts.

SI/HI/UI contributions are as follows:

	SI	HI	UI
Employee	7%	1.5%	1%
Employer	17%	3%	1%

The salary subject to SI/HI/UI contributions is the salary stated in the labour contract, but this is capped at 20 times the minimum salary (the minimum salary is VND1,050,000 effective from 1/5/2012).

Statutory SI, HI and UI employer contributions do not constitute a taxable benefit to the employee. The employee contributions are deductible for PIT purposes.

Other Taxes

Numerous other fees and taxes can apply in Vietnam, including, business licence tax and stamp duty/registration fees.

Tax Audits and Penalties

Tax audits are carried out regularly and often cover a number of tax years. Prior to an audit, the tax authorities send the taxpayer a written notice of time and scope of the audit inspection.

There are detailed regulations setting out penalties for various tax offences. These range from relatively minor administrative penalties through to tax penalties amounting to various multiples of the additional tax assessed.

The general statute of limitations for imposing penalties is 5 years. The tax authorities can collect under declared and unpaid tax at any time.

In practice, imposition of penalties has been arbitrary and inconsistent. However in recent years, there has been a much tougher stance adopted by the tax authorities. Hence where tax is paid late, as a result for example of a tax audit investigation, there is a significant likelihood of penalties and interest on overdue tax being imposed.

Accounting and Auditing

Accounting records are required to be maintained in VND. Foreign-invested business entity can select a foreign currency to be used for its accounting records and financial statements provided that they meet all requirements specified in Circular 244/2009/TT-BTC issued by the Ministry of Finance. Accounting records are required in Vietnamese language, together with a commonly-used foreign language. At the end of a financial year, the entity must perform a physical count of its fixed assets, cash and inventory.

The annual financial statements of all foreign-invested business entities must be audited by an independent auditing company operating in Vietnam. Audited annual financial statements must be

completed within 90 days from the end of the financial year. These financial statements should be filed with the applicable licensing body, Ministry of Finance, local tax authority, Department of Statistics, and other local authorities if required by law.

Vietnam has issued 26 accounting standards and 37 auditing standards which are primarily based on international standards with some local modifications.

Appendix I: Double Taxation Agreements

A summary of withholding tax rates is presented as follows:

Recipient	Interest (%)	Royalties (%)	Notes
Algeria (*)	-	-	-
Australia	10	10	-
Austria	10	7.5/10	1, 3
Bangladesh	15	15	1, 2
Belarus	10	15	1, 2
Belgium	10	5/10/15	1, 2, 3
Brunei Darussalam	10	10	1, 2
Bulgaria	10	15	1, 2
Canada	10	7.5/10	3
China	10	10	2
Cuba	10	10	-
Czech Republic	10	10	2
Denmark	10	5/15	1, 2, 3
Egypt (*)	-	-	-
France	Nil	10	-
Finland	10	10	-
Germany	10	7.5/10	2, 3
Hong Kong	10	7/10	2, 3
Hungary	10	10	-
Iceland	10	10	2
India	10	10	2
Indonesia	15	15	1, 2
Israel	10	5/7.5/15	1, 2, 3
Italy	10	7.5/10	2, 3
Ireland	10	5/10/15	2
Japan	10	10	1, 2, 3
Korea (South)	10	5/15	-
Korea (North)	10	10	1, 2
Kuwait (*)	-	-	-
Laos	10	10	-
Luxembourg	10	10	2
Malaysia	10	10	2

Mongolia	10	10	2
Morocco (*)	-	-	-
Mozambique (*)	-	-	-
Myanmar	10	10	1, 2, 3
Netherlands	10	5/10/15	2
Norway	10	10	1, 2
Oman	10	10	1, 2
Pakistan	15	15	1
Philippines	15	15	1, 3
Poland	10	10/15	1, 2
Qatar (*)	-	-	-
Romania	10	15	1
Russia	10	15	-
Saudi Arabia (*)	-	-	-
Seychelles	10	10	1, 2, 3
Singapore	10	5/15	2
Slovakia	-	-	-
Spain	10	10	1, 2
Sri Lanka	10	15	1, 2, 3
Sweden	10	5/15	2
Switzerland	10	10	1
Taiwan	10	15	1, 2
Thailand	10/15	15	2
Tunisia (*)	-	-	-
UAE	-	-	-
Ukraine	10	10	2
United Kingdom	10	10	1, 2
Uzbekistan	10	15	-
Venezuela	-	-	-
Kazakhstan (*)	-	-	-

(*) not in force yet

Notes:

1. In some cases the limits set by the DTA are not lower than the present withholding rate under domestic law. Therefore the domestic rates will apply.
2. Interest derived by certain government bodies is exempt from withholding tax.
3. Royalty withholding tax rates vary for certain types of royalties.

PwC Services in Vietnam

PwC Vietnam established offices in Hanoi and HCMC in 1994. Our team of approximately 700 local and expatriate staff have a thorough understanding of the transitional local economy in which they work and a wide knowledge of policies and procedures covering investment, legal, tax, accounting and consulting matters throughout Vietnam. PwC Vietnam has built strong relationships with key ministries, financial institutions, state owned enterprises, private companies, commercial organizations and the ODA community.

We also have a foreign law company in Vietnam, licensed by the Ministry of Justice in 2000, with its head office in Ho Chi Minh City and a branch office in Hanoi.

Services include:

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- Government liaison, tax risk management and dispute resolution
- Transfer pricing
- Tax due diligence

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- Employment and human resources
- Legal health check service

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- Transactions Services
- Corporate Finance Services
- Performance Improvement
- Strategy and Valuation advice
- Infrastructure, Government & Utilities

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- Review of financial information
- Agreed-upon procedures
- IFRS conversion
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We regularly share insights about the Vietnamese market via newsletters and our website. To sign up for our email alerts on regulatory & tax changes, please contact Richard Irwin, Partner, Tax and Legal Services at r.j.irwin@vn.pwc.com

We have an affiliated law firm in Vietnam, PwC Legal, and are therefore able to provide both tax and legal services to our clients.

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